

Notice of Allowability

Application No.

10/815,562

Examiner

Rita Mitra

Applicant(s)

MOHAMED ZAIYOU

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/10/2006.
2. ☒ The allowed claim(s) is/are 3-10,22,23 and 25.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>8/14/2006</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Status of the Claims

Applicants' amendment and response to Final Rejection dated June 21, 2006 filed on July 10, 2006 is acknowledged. Claims 1, 2 and 11-21 are withdrawn from consideration as being drawn to non-elected matter. Claim 22 has been amended. Claims 2 and 13 have been canceled. New claims 23 and 24 have been added. Therefore, claims 3-10 and 22-24 are currently under examination.

Upon further consideration and discussion with the Attorney Joseph R. Baker, **Exhibit A** the advisory action dated August 4, 2006 is vacated in view of a proposed amendment to claims (via facsimile, **Exhibit B**) by attorney followed by a counter proposal by the Examiner (via facsimile **Exhibit C**).

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Examiner's Amendment to the Claims

Claims 1, 11, 12, 14-25 have been amended to read as:

Claims 1, 11, 12, 14-21 cancelled.

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- Claim 22. (Amended) A method for inhibiting the growth of a bacterium or yeast comprising contacting the bacterium or yeast with an inhibiting effective amount of a polypeptide selected from the group consisting of:
- a) a polypeptide consisting of amino acid residues 31 to 131 of SEQ ID NO:2 and having 1-10 conservative amino acid substitutions:
 - b) a polypeptide comprising amino acid residues 31 to 131 of SEQ ID NO:2 and having 1-10 additional amino acid residues at the amino-terminus and/or carboxy-terminus wherein the additional amino acid residues are heterologous to residues 1-30 of SEQ ID NO:2 and/or residues 132-170 of SEQ ID NO:2; and
 - c) a polypeptide consisting of amino acid residues X_2 to X_3 , wherein X_2 is an amino acid residue selected from the group consisting of residues 29, 30 and 31 of SEQ ID NO:2, and wherein X_3 is an amino acid residue selected from the group consisting of residues 128, 129, 130 and 131 of SEQ ID NO:2, as cathelin-like peptide or variant consisting essentially of an amino acid sequence as set forth in SEQ ID NO:2 from about amino acid 31-131, wherein the cathelin-like peptide or variant is a polypeptide comprises cysteine proteinase inhibitor activity or and/or exhibits antibacterial activity, or a combination thereof.

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Claim 23. (Amended) The method of claim 22, wherein ~~the cathelin-like peptide variant has 1-10 conservative amino acid substitutions between amino acid residues 31-131~~ 31 and 131 of SEQ ID NO:2 include 1-5 conservative amino acid substitutions.

Claim 24. (Cancelled)

Claim 25. (New) A method for inhibiting the growth of a bacterium or yeast comprising contacting the bacterium or yeast with an inhibiting effective amount of a polypeptide selected from the group consisting of:

- a) a polypeptide comprising amino acid residues 31 to 131 of SEQ ID NO:2 including 1-10 conservative amino acid substitutions, and excluding:
 - i) residues 1-30 of SEQ ID NO:2 contiguous with the amino terminus of residues 31-131 of SEQ ID NO:2; and
 - ii) residues 132-170 of SEQ ID NO:2 contiguous with the carboxy-terminus of residues 31-131 of SEQ ID NO:2; and
- b) a polypeptide comprising amino acid residues 31 to 131 of SEQ ID NO:2, and excluding:
 - i) residues 1-30 of SEQ ID NO:2 contiguous with the amino terminus of residues 31-131 of SEQ ID NO:2; and
 - ii) residues 132-170 of SEQ ID NO:2 contiguous with the carboxy-

terminus of residues 31-131 of SEQ ID NO:2;
wherein residues 31-131 of SEQ ID NO:2 comprise cysteine
proteinase inhibitor activity or antibacterial activity, or a
combination thereof.

Authorization for this Examiner's Amendment was given in a telephone interview with
Attorney Joseph R. Baker on September 1, 2006.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest a method for inhibiting the growth of a bacterium or yeast comprising contacting said bacterium and yeast with an inhibiting effective amount of a cathelin-like peptide or variant consisting of an amino acid sequence as set forth in SEQ ID NO: 2 from about amino acid 31-131, wherein the polypeptide comprises cysteine proteinase inhibitor activity or exhibits antibacterial activity or a combination thereof.

Therefore the invention is novel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 3-10 and 22, 23 and 25 are allowed.

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Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita Mitra whose telephone number is 571-272-0954. The examiner can normally be reached on M-F, 10:00 am-7:00 pm.

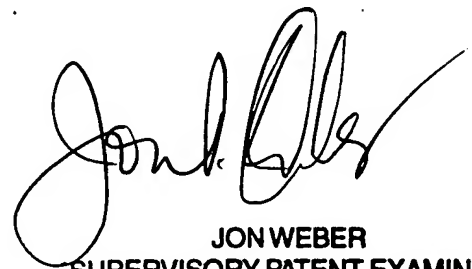
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rita Mitra, Ph.D.

September 4, 2006



JON WEBER
SUPERVISORY PATENT EXAMINER